

1 AN ACT concerning discount prescription drugs for senior
2 citizens.

3 Be it enacted by the People of the State of Illinois,
4 represented in the General Assembly:

5 Section 1. Short title. This Act may be cited as the
6 Senior Citizen Prescription Drug Discount Program Act.

7 Section 5. Findings. The General Assembly finds that:

8 (a) Although senior citizens represent 12% of the
9 population, they use on average 37% of prescription drugs
10 that are dispensed.

11 (b) Senior citizens in the United States without
12 prescription drug insurance coverage pay the highest prices
13 in the world for needed medications.

14 (c) High prescription drug prices force many Illinois
15 seniors to go without proper medication or other necessities,
16 thereby affecting their health and safety.

17 (d) Prescription drug prices in the United States are
18 the world's highest, averaging 32% higher than in Canada, 40%
19 higher than in Mexico, and 60% higher than in Great Britain.

20 (e) Prescription drug prices listed on the Federal
21 Supply Schedule that serve the Veterans Administration, the
22 Department of Defense, and the Coast Guard average 52% below
23 the non-federal average manufacturer's price.

24 (f) Regardless of household income, seniors without
25 prescription drug coverage are often just one serious illness
26 away from poverty.

27 (g) Reducing the price of prescription drugs would
28 benefit the health and well-being of all Illinois senior
29 citizens by providing more affordable access to needed drugs.

30 (h) Drug prices on the Federal Supply Schedule are
31 negotiated by the Department of Veterans Affairs and are the

1 best publicly available indicator of the prices that drug
2 companies charge their favored customers.

3 Section 10. Purpose. The purpose of this Program is to
4 require the Department of Central Management Services to
5 establish and administer a program that will enable eligible
6 senior citizens to purchase prescription drugs at discounted
7 prices.

8 Section 15. Definitions. As used in this Act:

9 "Authorized pharmacy" means any pharmacy registered in
10 this State under the Pharmacy Practice Act of 1987 and
11 approved by the Department.

12 "AWP" or "Average wholesale price" means the amount
13 determined from the latest publication of the Blue Book, a
14 universally subscribed pharmacist reference guide annually
15 published by the Hearst Corporation. "AWP" or "Average
16 wholesale price" may also be derived electronically from the
17 drug pricing database synonymous with the latest publication
18 of the Blue Book and furnished in the National Drug Data File
19 (NDDF) by First Data Bank (FDB), a service of the Hearst
20 Corporation.

21 "Department" means the Department of Central Management
22 Services.

23 "Director" means the Director of Central Management
24 Services.

25 "Drug manufacturer" means any entity (1) that is located
26 within or outside Illinois that is engaged in (i) the
27 production, preparation, propagation, compounding,
28 conversion, or processing of prescription drug products
29 covered under the Program, either directly or indirectly by
30 extraction from substances of natural origin, independently
31 by means of chemical synthesis, or by a combination of
32 extraction and chemical synthesis or (ii) the packaging,

1 repackaging, leveling, labeling, or distribution of
2 prescription drug products covered under the Program and (2)
3 that elects to provide prescription drugs either directly or
4 under contract with any entity providing prescription drug
5 services on behalf of the State of Illinois. "Drug
6 manufacturer", however, does not include a wholesale
7 distributor of drugs or a retail pharmacy licensed under
8 Illinois law.

9 "Eligible senior" means a person who is (i) a resident of
10 Illinois and (ii) 65 years of age or older.

11 "Federal Supply Schedule" or "FSS" means a price
12 catalogue containing goods available for purchase by federal
13 agencies. Drug prices on the FSS are negotiated by the
14 (U.S.) Department of Veterans' Affairs and are the best
15 publicly available indicator of prices drug companies charge
16 favored customers.

17 "Prescription drug" means any prescribed drug that may be
18 legally dispensed by an authorized pharmacy.

19 "Program" means the Senior Citizen Prescription Drug
20 Discount Program created under this Act.

21 "Rules" includes rules adopted and forms prescribed by
22 the Department.

23 Section 20. The Senior Citizen Prescription Drug Discount
24 Program. The Senior Citizen Prescription Drug Discount
25 Program is established to protect the health and safety of
26 senior citizens. The Program shall be administered by the
27 Department. The Department shall (i) enroll eligible seniors
28 into the Program to qualify them for a discount on the
29 purchase of prescription drugs at an authorized pharmacy,
30 (ii) enter into rebate agreements with drug manufacturers,
31 and (iii) reimburse pharmacies for the cost of providing
32 discounts using the proceeds from the manufacturer rebate
33 agreements.

1 Section 25. Prescription drug prices.

2 (a) Beginning on January 1, 2004, the amount paid by
3 eligible seniors enrolled in the Program to authorized
4 pharmacies for prescription drugs may not exceed prices
5 listed on the Federal Supply Schedule plus a dispensing fee
6 calculated as provided in Section 3.16 of the Senior Citizens
7 and Disabled Persons Property Tax Relief and Pharmaceutical
8 Assistance Act. Nothing in this Act precludes any authorized
9 pharmacy from charging less than the listed price on the
10 Federal Supply Schedule. The Department must provide the
11 applicable Federal Supply Schedule to authorized pharmacies.
12 For prescription drugs that are not listed on the Federal
13 Supply Schedule, the amount paid by eligible seniors enrolled
14 in the Program to authorized pharmacies may not exceed the
15 AWP minus 35% plus a dispensing fee calculated as provided in
16 Section 3.16 of the Senior Citizens and Disabled Persons
17 Property Tax Relief and Pharmaceutical Assistance Act.

18 (b) Subject to the requirements of the State Prompt
19 Payment Act, the Department shall compensate authorized
20 pharmacies from the Senior Citizen Prescription Drug Discount
21 Program Fund for the difference between the amount paid by
22 eligible seniors for prescription drugs dispensed under the
23 Program and the AWP minus 10%.

24 Section 30. Manufacturer rebate agreements.

25 (a) Taking into consideration the extent to which the
26 State pays for prescription drugs under various State
27 programs, the Department or its agent shall negotiate and
28 enter into rebate agreements with drug manufacturers, as
29 defined in this Act, to effect prescription drug price
30 discounts. Persons eligible for benefits under this Program
31 shall be entitled to purchase prescription drugs at the
32 negotiated discount price. The rebate agreement shall be
33 equal to the cost to the Department for reimbursing

1 authorized pharmacies under this Act pursuant to subsection
2 (b) of Section 25. The rebate agreement shall become
3 effective the first day of the calendar quarter that begins
4 60 days after the date the agreement is entered into.

5 (b) The Department shall develop a model rebate
6 agreement for prescription drugs dispensed on and after the
7 effective date of this Act.

8 (c) Rebate payment procedures. All rebates negotiated
9 under agreements described in this Section shall be paid to
10 the Department in accordance with procedures prescribed by
11 the Department. All rebates must be remitted to the
12 Department not later than 30 days after receipt of a request
13 for payment by the Department.

14 (d) The receipts from the rebates and moneys transferred
15 under Section 33 shall be deposited into the Senior Citizen
16 Prescription Drug Discount Program Fund, a special fund
17 hereby created in the State treasury, and shall be used,
18 subject to appropriation, to cover the cost of reimbursing
19 authorized pharmacies under this Act pursuant to subsection
20 (b) of Section 25.

21 Section 33. Transfer to Senior Citizen Prescription Drug
22 Discount Program Fund.

23 (a) Within 30 days after the effective date of this Act,
24 the State Comptroller shall direct and the State Treasurer
25 shall transfer \$27,000,000 from the General Revenue Fund to
26 the Senior Citizen Prescription Drug Discount Program Fund to
27 facilitate the payment of reimbursements to authorized
28 pharmacies. Repayment of principal and interest to the
29 General Revenue Fund shall be made so that the balance in the
30 General Revenue Fund will be restored as if the transfer to
31 the Senior Citizen Prescription Drug Discount Program Fund
32 had not been made. Upon a certification by the Department of
33 Revenue that the obligations under subsection (b) of Section

1 25 are being met, beginning on July 1, 2004, and on the 1st
2 of each month thereafter until the principal amount
3 transferred from the General Revenue Fund plus interest has
4 been repaid, the State Comptroller shall direct and the State
5 Treasurer shall transfer 1/12th of \$27,000,000, or so much of
6 that amount as is necessary, from the Senior Citizen
7 Prescription Drug Discount Program Fund to the General
8 Revenue Fund plus accrued interest. The balance of the
9 amount transferred from the General Revenue Fund shall bear
10 interest at the rate of 7.5% per annum until the required
11 transfers back into the General Revenue Fund have been
12 completed.

13 Section 35. Program eligibility.

14 (a) Any person may apply to the Department for
15 participation in the Program in the form and manner required
16 by the Department. The Department shall determine the
17 eligibility of each applicant for the Program within 30 days
18 after the date of application. To participate in the Program
19 an eligible senior whose application has been approved by the
20 Department must pay \$25 upon enrollment and annually
21 thereafter and shall receive a Program identification card.
22 The card may be presented to an authorized pharmacy to assist
23 the pharmacy in verifying eligibility under the Program. The
24 Department shall deposit the enrollment fees collected into
25 the Senior Citizen Prescription Drug Discount Program Fund.
26 The monies collected by the Department for enrollment fees
27 and deposited into the Senior Citizen Prescription Drug
28 Discount Program Fund must be separately accounted for by the
29 Department. If 2 or more persons are eligible for any benefit
30 under this Act and are members of the same household, each
31 participating household member shall apply to the Department
32 and pay the fee required for the purpose of obtaining an
33 identification card.

1 (b) Proceeds from annual enrollment fees, subject to
2 appropriation, shall be used by the Department to offset the
3 administrative cost of this Act. The Department may reduce
4 the annual enrollment fee by rule if the revenue from the
5 enrollment fees is in excess of the costs to carry out the
6 Program.

7 (c) Any person who is eligible for pharmaceutical
8 assistance under the Senior Citizens and Disabled Persons
9 Property Tax Relief and Pharmaceutical Assistance Act is
10 presumed to be eligible for this Program. That person may
11 purchase prescription drugs under this Program that are not
12 covered by the pharmaceutical assistance program under the
13 Senior Citizens and Disabled Persons Property Tax Relief and
14 Pharmaceutical Assistance Act by using the identification
15 card issued under the pharmaceutical assistance program.

16 Section 40. Eligible pharmacies.

17 (a) The Department shall adopt rules to establish
18 standards and procedures for participation in the Program and
19 approve those pharmacies that apply to participate and meet
20 the requirements for participation. The Department may
21 remove the authorization of a pharmacy to participate in this
22 Program for failure to meet the standards and procedures for
23 participation established by the Department by rule. Any
24 pharmacy that has been removed as an authorized pharmacy by
25 the Department may apply for reinstatement as an authorized
26 pharmacy in accordance with standards and procedures
27 established by the Department by rule.

28 (b) The Department shall annually review the eligibility
29 of pharmacies to participate in the Program.

30 (c) The Department shall establish procedures for
31 properly contracting for pharmacy services, validating
32 reimbursement claims, validating compliance of authorized
33 pharmacies with the conditions for participation required

1 under this Act, and otherwise providing for the effective
2 administration of this Act. The Director, in consultation
3 with pharmacists licensed under the Pharmacy Practice Act of
4 1987, may enter into a written contract with any other State
5 agency, instrumentality, or political subdivision or with a
6 fiscal intermediary for the purpose of making payments to
7 authorized pharmacies pursuant to subsection (b) of Section
8 25 and coordinating the Program with other programs that
9 provide payments for prescription drugs covered under the
10 Program.

11 Section 45. Rules. The Department shall adopt rules to
12 implement and administer the Program, which shall include the
13 following:

14 (1) Execution of contracts with pharmacies to
15 participate in the Program. The contracts shall
16 stipulate terms and conditions for the participation of
17 authorized pharmacies and the rights of the State to
18 terminate participation for breach of the contract or for
19 violation of this Act or rules adopted by the Department
20 under this Act.

21 (2) Establishment of maximum limits on the size of
22 prescriptions that are eligible for a discount under the
23 Program, up to a 90-day supply, except as may be
24 necessary for utilization control reasons.

25 (3) Establishment of liens upon any and all causes
26 of action that accrue to a beneficiary as a result of
27 injuries for which prescription drugs covered under the
28 Program are directly or indirectly required and for which
29 the Director made payment or became liable for under this
30 Act.

31 (4) Inspection of appropriate records and audits of
32 participating authorized pharmacies to ensure contract
33 compliance and to determine any fraudulent transactions

1 or practices under this Act.

2 Section 50. Report on administration of Program. The
3 Department shall report to the Governor and the General
4 Assembly by March 1st of each year on the administration of
5 the Program under this Act.

6 Section 990. The State Finance Act is amended by adding
7 Section 5.595 as follows:

8 (30 ILCS 105/5.595 new)

9 Sec. 5.595. The Senior Citizen Prescription Drug
10 Discount Program Fund.

11 Section 999. Effective date. This Act takes effect July
12 1, 2003.